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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	Case No. 3:05-cr-00109-JWS
Plaintiff,)	
)	
v.)	
)	<u>UNITED STATES SENTENCING</u>
FRANK ENRIQUE MOTA-RIJO,)	<u>MEMORANDUM</u>
)	
Defendant.)	
_____)	

SUMMARY OF SENTENCING RECOMMENDATIONS

TERM OF IMPRISONMENT 60 MONTHS

SUPERVISED RELEASE 4 YEARS

SPECIAL ASSESSMENT \$100.00

The United States Probation Office (“USPO”) has prepared a presentence investigation report (“PSR”) in this case. The government does not dispute the factual findings of the USPO.

I. BACKGROUND

On September 28, 2005, investigators from the Drug Enforcement Administration (“DEA”) arrested the defendant in connection with a six count indictment that charged the defendant with conspiracy and distribution of cocaine and cocaine base. The indictment arose from several purchases made by a DEA confidential source (the “CS”). Specifically, on September 13, 2005, the CS was introduced to the defendant by Wilkins Furment. On September 20, 2006, the defendant sold the CS three ounces of cocaine. On September 28, 2005, the date of his arrest, the DEA executed search warrants on the defendant’s residence, and recovered additional cocaine and drug paraphernalia.

On or about November 29, 2005, the defendant entered into an informal agreement with the government under which he agreed to plead guilty to a one count information charging the defendant with Conspiracy to distribute in excess of 500 grams of cocaine. On February 10, 2006, the defendant was arraigned on the information and entered into a plea of guilty. In exchange, the United States agreed to dismiss the charges in the earlier indictment.

II. SENTENCING RECOMMENDATION

A. Application of the United States Sentencing Guidelines

Pursuant to the charge to which the defendant pled, the maximum sentence that may be imposed on defendant is 40 years in prison, a \$2 million fine, 4 years supervised release, and a \$100 special assessment. There is a mandatory minimum of five years in prison. The USPO has found that the defendant has an adjusted offense level of 23, and a criminal history category of III. Accordingly, the defendant's sentencing range under the guidelines is 57 to 71 months. This range presents a significant reduction from the mandatory minimum 120-month sentence the defendant otherwise faced on the original indictment.

B. Application of 18 U.S.C. §3553(a)

The United States submits that application of the factors set forth in 18 U.S.C. § 3553(a) supports a sentence within the guideline range of 57 - 71 months. First, as noted, the nature and circumstances of the offense are serious, given that they ordinarily would have subjected the defendant to a 120-month sentence if convicted of the conspiracy. The mandatory minimum provides for a 60 month sentence. The United States submits that this sentence adequately addresses the factors set forth in 18 U.S.C. § 3553(a). The United States submits that such sentence would serve to deter the defendant and future offenders, allow for the

defendant's rehabilitation, protect the public, and be consistent with sentences received by similarly situated defendants convicted of similar conduct. A period of four years of supervised release and a \$100 special assessment is mandatory.

RESPECTFULLY SUBMITTED this 31st day of May, 2006 in
Anchorage, Alaska.

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s/ Frank V. Russo
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CERTIFICATE OF SERVICE

I declare under penalty of perjury that a true and correct copy of the foregoing was sent to the following counsel of record on May 31, 2006, via:

(X) Electronic case filing notice

Pamela Sullivan, Esq.

Barbara Burton, U.S. Probation Office

s/ Frank V. Russo